

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

MICHAEL D. WILSON,

Plaintiff,

v.

UNKNOWN,

Defendant.

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Civil Action No. 4:18-cv-00946-O

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made Findings, Conclusions, and a Recommendation in this case. *See* FCR, ECF No. 5. The Magistrate Judge recommended this Court deny Plaintiff's Motion to Proceed in Forma Pauperis. *See id.* Plaintiff timely filed objections. Pl.'s Obj., ECF No. 6. The District Court conducts a *de novo* review of the portions of the FCR to which a party objects.

The Magistrate Judge found that Plaintiff has sufficient resources to pay the applicable fees because he receives over \$34,000 in annual income. FCR 2, ECF No. 5. Plaintiff objects to this finding, arguing that payments he receives from the Department of Veteran Affairs are not considered income by the IRS. Pl.'s Obj. 2, ECF No. 6. However, courts consistently consider disability-type benefit payments in making the in-forma-pauperis determination.¹ Therefore, the

¹ *See Dow v. Colvin*, No. 4:13-cv-299-A BJ, 2013 WL 1952092, at *1 (N.D. Tex. Apr. 15, 2013); *Stevenson v. Colvin*, No. cv 16-14174, 2016 WL 11048287, at *1 (E.D. Mich. Dec. 7, 2016), *rep. and rec. adopted*, No. 16-cv-14174, 2017 WL 8683321 (E.D. Mich. Jan. 19, 2016); *Whatley v. Astrue*, No. 5:11-cv-1009 NAM/ATB, 2011 WL 5222908, at *2 (N.D.N.Y. Oct. 14, 2011), *rep. and rec. adopted*, No. 5:2011-cv-

Court **OVERRULES** Plaintiff's Objections (ECF No. 6) and **ACCEPTS** the Findings, Conclusion, and Recommendation of the Magistrate Judge (ECF No. 5).

Accordingly, Plaintiff's Motion to Proceed in Forma Pauperis (ECF No. 2) is **DENIED**. Plaintiff's complaint will be subject to dismissal without further notice under Federal Rule of Civil Procedure 41(b) unless Plaintiff pays the full filing and administrative fees within seven (7) days of this order.

SO ORDERED on this **26th day of December, 2018**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE

1009, 2011 WL 5196716 (N.D.N.Y. Oct. 31, 2011); *Hightower v. Arnold*, No. 4:07-cv-00087 JLH, 2007 WL 1668658, at *1 (E.D. Ark. June 8, 2007).